SUPREME COURT OF THE UNITED STATES.

No. 298.

THE UNITED STATES, APPELLANTS,

vs.

THE STEAMER FROLIC, HER TACKLE, APPAREL, &c.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

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1 *Libel of information.—Filed June 20th, 1865.*

To the honorable the judges of the circuit court of the United States for the sixth judicial circuit and eastern district of Louisiana.

The libel of information of Rufus Waples, attorney of the United States for the eastern district of Louisiana, who prosecutes for the said United States in this behalf, and being here present in court, in his own proper person, in the name and behalf of the said United States of America, and Charles Black, sr., informant, against the steamer Frolic, her tackle, apparel, and furniture, hereinafter described, and against all persons intervening for their interest therein, in a case of seizure and forfeiture, alleges, propounds, and declares as follows:

I. That Cuthbert Bullitt, esq., marshal of the United States for the said district, under written authority given him by the said attorney, in compliance with instructions issued by the Attorney General of the United States to the district attorneys thereof, and by virtue of the act of Congress, approved on the sixth day of August, in the year of our Lord one thousand eight hundred and sixty-one, entitled "An act to confiscate property used for insurrectionary purposes," heretofore, that is to say, on the 15th day of June, in the year one thousand eight hundred and sixty-five, seized as forfeited to the United States, at New Orleans, within said district, and within the jurisdiction of this court, this steamer Frolic, her tackle, apparel, and furniture.

2 II. That by the act of the Congress of the United States, approved August 6, 1861, entitled "An act to confiscate property used for insurrectionary purposes," it was provided, "that if, during the present or any future insurrection against the government of the United States, after the President of the United States shall have declared, by proclamation, that the laws of the United States are opposed, and the execution thereof obstructed by combinations too powerful to be suppressed by the ordinary course of judicial proceeedings, or by the power vested in the marshals by law, any person or persons, his, her, or their agent, attorney, or employee, shall purchase or acquire, sell or give, any property of whatever kind or description, with intent to employ the same, or suffer the same to be used or employed, in aiding, abetting, or promoting such rebellion or resistance to the laws, or any person or persons engaged therein; or if any person or persons, being the owner or owners of any such property, shall knowingly use or employ, or consent to the use or employment of the same as aforesaid, all such property is hereby declared to be lawful subject of prize and capture wherever found; and it shall be the duty of the President of the United States to cause the same to be seized, confiscated, and condemned."

III. That the President of the United States did, on the 15th of April, 1861, declare by proclamation, "that the laws of the United States are opposed and the execution thereof obstructed by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the power vested in the marshals by law;"

and that on the 16th of August, 1861, he did reiterate said proclamation, and did declare that "such insurrection" still existed and had not been suppressed.

IV. 1. That the property herein above described was used and employed knowingly by the owner or owners thereof, in aiding, abetting, and promoting the said insurrection and resistance to the laws, within the meaning of the said act of Congress, after the approval of the said act, and after the public proclamations of the President above mentioned, and after the 16th day of August, 1861, by being used to transport troops of the so-called Confederate States, and in transporting munitions of war and supplies for the use of the said troops in armed rebellion against the United States.

2. That the property herein described was used and employed knowingly by the owner or owners thereof, in aiding and abetting persons engaged in the said insurrection and resistance to the laws, within the meaning of the said act of Congress, after the approval of said act, and after the public proclamations of the President above mentioned, and after the 16th day of August, 1861, by being used in the transportation of troops of the so-called Confederate States in insurrection against the government of the United States, and in the transportion of munitions of war and supplies for the so-called confederate government.

3. That the said property was purchased and acquired, and sold and given, by the owner or owners thereof, or by his, her, or their agent or employee, with intent to use or employ the same for the purpose of aiding, abetting, and promoting the said insurrection and resistance to the laws, after the approval of said act, and after the public proclamations above mentioned, and after the 16th day of August, 1861, by being used in transporting troops of the so-called Confederate States and in transporting supplies, provisions, etc., for the said confederate troops in insurrection against the government of the U. S.

4. That the owner or owners of the said property did knowingly consent to the use or employment of it for the purpose of aiding or abetting or promoting said insurrection and resistance to the laws, or of aiding, abetting, or promoting persons engaged therein, after the approval of said act, and after the proclamations above mentioned, and after the 16th day of August, 1861, by permitting the use of the property as aforesaid.

5. That the owner or owners of said property, his, her, or their agent or employee, did suffer said property to be used or employed in aiding, abetting, or promoting the insurrection proclaimed by the President as aforesaid, and in aiding, abetting, or promoting a person or persons engaged in said insurrection, after the approval of act above mentioned, and after the proclamation of the President, duly made public on the 16th day of August, 1861, by permitting its use as above set forth.

V. That by reason of the premises, the property herein described became and was forfeited to the United States, and ought to be con-

fiscated and condemned to the use of the said United States as enemy property.

Wherefore, the said attorney, in the name and behalf of the United States of America, prays that process of monition may issue against the said property and the owner or owners thereof, and against all persons interested or claiming an interest therein, warning them,
3 at some early day to be named therein, to appear and answer this libel of information; and that an order of publication may be made in the usual form; and that, all due proceedings being had, this honorable court may be pleased to decree for condemnation and forfeiture of the said property to the use and ownership of the said United States, and of Charles Black, sr., informant, and he prays for such further relief as the court is competent to give in the premises.

(Signed) RUFUS WAPLES,
United States Att'y for the East. Dist. of La.

Filed June 20th, 1865.

4 *Order of publication.*

United States circuit court for the sixth judicial circuit and eastern district of Louisiana.

UNITED STATES
vs.
THE STEAMER FROLIC, tackle, apparel, and furniture. } No. 3,595.

Whereas the steamer Frolic, her tackle, apparel, and furniture, described in the libel filed by the dist. attorney, and now of record in this court, and all the right, title, and interest therein, has been seized by the marshal of the United States for the eastern district of Louisiana, by virtue of an act of Congress, approved on the sixth day of August, in the year of our Lord one thousand eight hundred and sixty-one, entitled "An act to confiscate property used for insurrectionary purposes," and whereas the United States attorney for the eastern district of Louisiana did, on the 20th day of June, A. D.
5 1865, file a libel of information in this court, praying the condemnation of said property under the act aforesaid, and that process of monition issue against the owner and owners of said property, and all persons interested or claiming and interest therein, warning them at some early day of appear and answer said information.

And is, therefore, on this 27th June, in the year of our Lord eighteen hundred and sixty-five, ordered that notice be given to the owner and owners of said property, and all persons interested or claiming an interest therein, to appear and answer this information on the 17th day of July, 1865, and show cause, if any they have, why said property, and the right, title, and interest therein, should not be condemned and sold according to law, and that notice be given by posting a copy of this order upon the front door of the

court house of the district, and by publication in the Times newspaper twice a week previous to said 17th day of July, A. D.
6 1865, the first publication to be on or before the 3d July, 1865.

New Orleans, June 27th, 1865.

(Signed) E. H. DURELL, *Judge*.

Warrant.

The President of the United States of America to the marshal of the eastern district of Louisiana, or to his lawful deputy, greeting:

You are hereby commanded forthwith to seize, and into your possession take, the steamer Frolic, her tackle, apparel, and furniture, described in the libel filed by the district att'y, now of record in this court and now libelled by the United States for the causes set forth in the libel pending in the circuit court of the United States for the sixth judicial circuit and eastern district of Louisiana: That you do cite and admonish the owner and owners, and all and every
7 other person or persons having or pretending to have any right, title, or interest in or to the same, to be and appear before a circuit court of the United States for the district aforesaid, to be holden at the city of New Orleans, on or before the third Monday from the service hereof, to show cause, if any they have or can, why the said property should not be condemned and sold agreeably to the prayer of the libellant; and how you have executed this warrant, that you make return according to law.

Witness the Hon. Salmon P. Chase, Chief Justice of the Supreme Court of the United States, this 27th day of June, A. D. 1865, and 89th year of the independence of the United States.

(Signed) F. B. VINOT, *D'y Clerk*.

Marshal's return.

Received June 30th, 1865, and having seized and taken into my possession the str. Frolic, her tackle, apparel, etc., on the
8 authority of a previous writ, I posted a copy of this warrant, the libel, and the order of the judge, on the door of the court house, and published the monition in the N. O. Times, a daily paper printed and published in N. Orleans, on the 1st, 6th, 11th, 15th July, 1865.

(Signed) A. BOUDOUIN, *Deputy*.

Monition.

In the United States circuit court for the sixth circuit and district of Louisiana, No. 3,595.

UNITED STATES
vs.
STEAMER FROLIC, her tackle, apparel, and furniture. } No. 3,595.

In obedience to an admiralty warrant to me directed in the above-entitled suit, I have seized and taken into my possession the steamboat

Frolic, her tackle, apparel, and furniture, now libelled by the United States of America, for the causes set forth in the libel now pending in the circuit court of the United States, and I do hereby cite and admonish the owner and owners thereof, and all and every per-
9 son or persons having or pretending to have any right, title, or interest in or to the same, to be and appear at a circuit court of the United States for the district aforesaid, to be holden at the city of New Orleans on or before the third Monday from the date hereof, to show cause, if any they have or can, why the said steamboat, her tackle, apparel, etc., should not be condemned as forfeited to the United States, and be sold agreeably to the prayer of libellants, and the proceeds thereof be distributed according to law.

United States marshal's office, New Orleans, 30th day of June, 1865.

(Signed) CUTHBERT BULLIT,
United States Marshal.

Claim of John Freese et al.—Filed July 18, 1865.

In the United States circuit court.

THE UNITED STATES
vs.
STEAMBOAT FROLIC, her tackle, apparel, etc.

10 And Jno. Freese and John Hienn, of N. O., and B. F. Goodwing, of Wheeling, State of Virginia, come and claim as their own property the steamboat Frolic, her tackle, apparel, etc., seized herein, and libelled and propounded against as forfeited in and by the libel aforesaid, under the act of 6th August, 1861, entitled "An act to confiscate property *property* used for insurrectionary purposes," and the said claimants allege that at the time of the seizure aforesaid they were and yet are the true, sole, and lawful owners and proprietors, bona fide, of said steamboat Frolic, her tackle, apparel, etc., and of this they are ready to make due proofs by their own oath and otherwise, as the court shall direct.

(Signed) C. ROSELINS, *Proctor.*
(Signed) JOHN FREESE.
(Signed) J. HIENN.

Sworn to and subscribed before me, this 18th July, 1865.
(Signed) F. B. VINOT, *D'y Clerk.*

11 *Petition to bond.—Filed July* 18, 1865.

In the United States circuit court.

UNITED STATES
vs.
STEAMBOAT FROLIC, her tackle, apparel, etc. } No. 3,595.

The petition of John Freese and John Hienn, of New Orleans, B. F. Goodwin, of Wheeling, Va., respectfully represents that they are

the true, sole, and lawful owners, bona fide, of said steamboat Frolic, her tackle, apparel, etc., and have duly intervened and claimed herein accordingly, and that they are desirous of relieving said steamboat, etc., from seizure by giving bond and security, conditioned according to law:

Wherefore your petitioners respectfully pray the court to order an appraisement of said steamboat Frolic, her tackle, apparel, etc., and to order that she be released from seizure and surrendered to your petitioners, upon their executing bond with surety, etc., ac-
12 cording to law, in such sum as the court may be pleased to designate; and they pray for general relief, etc., etc.

(Signed) C. ROSELINS.

Order.

Let the steamboat Frolic, her tackle, apparel, etc., be appraised by Heartt & Swain, and let the petitioners, John Freese, John Hienn, and B. F. Goodwin, be permitted to bond the same upon furnishing a stipulation in the sum exceeding by one half the appraised value thereof, with good and solvent security, conditioned as the law directs, and upon payment and costs of appraisement.

July 18, 1865.

(Signed) E. H. DURELL, *Judge.*

Bond for costs.—Filed July 18, 1865.

UNITED STATES, *Eastern Dist. of Louisiana, to wit:*

13 Personally appearing before me, the undersigned, United States commissioner for the eastern district of La., aforesaid, John Freese and John Hienn, as principal, and Jotham L. Warner, as surety, do hereby acknowledge themselves, jointly and severally, to be indebted unto the United States in the full sum of two hundred and fifty dollars, lawful money of the United States, to be levied of their goods, chattels, lands, and tenements, the use of the said United States, and for the payment whereof they jointly and severally bind themselves, their heirs, executors, and administrators, firmly by these presents.

Whereas in the matter of the United States *vs.* the steamer Frolic, her tackle, etc., No. 3,595 of the docket of the circuit court of the United States for the eastern district of Louisiana, a libel of information has been filed on behalf of the United States.

14 This obligation to be null and void on condition that the said John Freese and John Hienn shall abide by the final decree rendered in the cause, and pay all such costs, expenses, and damages as shall be awarded by the court, upon the final decree, whether it is rendered in the original or appellate court; otherwise this obligation to remain in full force and virtue.

(Signed) JOHN FREESE. [L. S.]
(Signed) J. HIENN. [L. S.]
(Signed) J. L. WARNER. [L. S.]

Signed and sealed at the city of New Orleans, this 18th day of July, 1865, in presence of—

(Signed) CHS. CLAIBORNE,
U. S. Comm'er in and for the East. Dist. of Louisiana.

Notice to appraisers.—Issued July 18, 1865.

United States circuit court eastern district of Louisiana.

15 UNITED STATES
vs.
THE STEAMER FROLIC, etc. } No. 3,595.

To H. G. Heartt and Richard Swain:

Take notice that you have been this day appointed appraisers for the purpose of ascertaining the value of the property libelled in this case, and you are to file the report of your appraisement within the shortest possible delay.

By order of the court.

New Orleans, July 18, 1865.

(Signed) F. B. VINOT, *D'y Cl'k.*

Marshal's return.

Received July 18, 1865, and on same day, month, and year, before 2 o'clock p. m. on that day, served a copy of the within notice on Heartt and Swain, appraisers, by leaving it in the hands of Rich. Swain, esq., he being one of the appraisers named herein.

New Orleans, July 19, 1865.

(Signed) J. J. PREIS, *D'y U. S. Marshal.*

16 *Appraisers' report.—Filed July* 19, 1865.

UNITED STATES
vs.
STR. FROLIC, tackle, etc. } No. 3,595.

To the hon. circuit court for the eastern district of Louisiana:

We, the undersigned appraisers to this honorable court, duly appointed and sworn, have the honor to report:

That on the nineteenth day of July, 1865, we proceeded on board of the steamer Frolic for the purpose of ascertaining her value; and after a careful and thorough examination, find that she is about five years old; built in Wheeling, Va., 1860; she is 296 tons burden.

And on a careful examination of the sain boat, her boilers, engines, tackle, and apparel, etc., and find the same in an ordinary condition, we do therefore value and appraise the said boat at the sum of ninety-six hundred dollars ($9,600) cash, and no more.

17 Given under our hands this nineteenth day of July, 1865.

(Signed) H. G. HEARTT.
(Signed) RICHARD SWAIN.
U. S. Appraisers, N. Orleans.

Appraisers' bill.—Filed July 19, 1865.

UNITED STATES COMMISSIONER'S OFFICE,
APPRAISERS' DEPARTMENT, *N. Orleans, July* 19, 1865.

In the matter of the steamer Frolic, to appraisers office, Dr.
For appraisement of steamer Frolic, $9,600, at 1 per cent.. $96 00

Release bond.—Filed 19th July, 1865.

18 UNITED STATES OF AMERICA, *Eastern District of Louisiana:*

Know all men by these presents, that we, John Freese and John Hienn, of New Orleans, claimants and owners of the steamer Frolic, her tackle, &c., as principal, and Jotham L. Warner and Frank W. Seymour, as sureties, are held and firmly bound unto the United States of America, libellant, in the sum of fourteen thousand four hundred dollars, lawful money of the United States of America, for the payment whereof to the said United States we jointly and severally bind ourselves, our heirs, executors, and administrators, firmly by these presents.

Witness our respective names and seals, hereunto affixed by us at New Orleans, this 19th day of July, one thousand eight hundred and and sixty-five.

Whereas an admiralty warrant was lately issued out of the honorable the circuit court of the United States of America for the eastern district of Louisiana, at the suit of the United States *vs.* the steamer Frolic, her tackle, apparel, and furniture, and numbered 3,595 on the docket of the said court, commanding the marshal to seize and take into his possession the steamer Frolic, which has been seized accordingly, but has been released from said seizure and delivered to said claimants and owners thereof, by reason of the signing, sealing, and delivery of these presents, said claimants and owners having obtained leave of court to bond said property, and filed a claim thereto, which is now of record in the clerk's office of this court:

Now, the condition of the above obligation is such, that if the said claimant and sureties abide by all the orders, interlocutory or final, of the court, and pay the said libellants the amount awarded by the final decree, rendered in the court to which the process is returnable or in any appellate court, then the foregoing obligation is to be void; but otherwise shall remain in full force and virtue.

(Signed)	JOHN FREESE.	[L. S.]
(Signed)	J. HIENN.	[L. S.]
(Signed)	J. L. WARNER.	[L. S.]
(Signed)	F. W. SEYMOUR.	[L. S.]

Signed, sealed, and delivered in presence of—

(Signed) CH'S CLAIBORNE.
U. S. Commissioner.

19 Jotham L. Warner and Frank W. Seymour, sureties on the within bond, being duly sworn, say, that they reside in this

city, and are worth, each, the sum of seven thousand two hundred dollars over and above all their just debts and liabilities.

(Signed) J. L. WARNER.
(Signed) F. W. SEYMOUR.

Sworn to and subscribed before me, this 19th July, 1865.
(Signed) CH'S CLAIBORNE,
U. S. Commissioner.

20 *Writ of release.—Issued July* 19th, 1865.

United States circuit court, eastern dist. of Louisiana.

CLERK'S OFFICE,
New Orleans, July 19th, 1865.

UNITED STATES
vs.
THE STEAMER FROLIC, her tackle, etc. } No. 3,595.

The President of the United States of America to the marshal of the eastern district of Louisiana, or his lawful deputy, greeting:

Whereas John Freese and John Hienn, claimants and owners of said steamer, hath this day filed a claim thereto on behalf of themselves, and obtained leave of court to bond said steamer, and which said claim is now of record in this office—

21 You are hereby authorized to release the said steamer from seizure, and her to restore to the possession and custody of said claimant, he having given bond conditioned as required by the order of court, and otherwise complying with the rules of court, &c., and make return hereon of your doings in the premises.

Witness the Hon. Salmon P. Chase, Chief Justice of the Supreme Court of the U. S. of America, at New Orleans, this 19th day of July, A. D. 1865, and the 90th year of the independence of the United States.

(Signed) F. B. VINOT, *D'y Clerk.*

Marshal's return.

Received July 19th, 1865, and on the same day, month, and year released the steamboat Frolic, her tackle, apparel, and furniture, unto John Freese, the captain of said boat, who took possession of the same forthwith, and I then discharged the U. S. marshal's keeper from said boat, in obedience to this writ.

July 19th, 1865.
Signed) J. J. PREIS,
D'y U. S. Marshal.

22 *Answer of claimants.—Filed July* 26, 1865.

In the U. S. circuit court, 6th circuit and eastern dist. of La.

UNITED STATES
vs.
STEAMBOAT FROLIC, her tackle, apparel, etc. } No. 3,595.

And now come John Freese, John Hine, and B. T. Goodwin, all loyal citizens of the United States, and for answer to the libel of information herein say:

1st. To the 1, 2, and 3 articles of said libel of information they say, that they admit the seizure of said steamboat Frolic, her tackle, apparel, etc., by virtue of process issued herein, and that steamboat, etc., is proceeded against by virtue of the act of Congress of the 6th August, 1861, and the proclamations of the President of the 15th April and 16th August, 1861; but your respondents aver that said seizure and said proceedings are without justification in law, and in violation of their rights and ownerships in and to said steamboat, etc.

23 2d. To the 4th article of said libel of information, and to the specification 1, 2, 3, 4, and 5, and to 5th article thereof, they say, that said steamboat Frolic was used and employed knowingly by your respondents in aiding, abetting, or promoting the said insurrection and resistance to the laws within the meaning of said act of Congress, after the approval thereof, and after said public proclamations of the President, by being used in the transportation of confederate troops in insurrection against the government of the U. S., and in transporting munitions of war and supplies for the said troops; nor was said steamboat, etc., used and employed by your respondents, the owners, thereof, in aiding and abetting persons engaged in said insurrection and resistance to the laws within the meaning of the said act of Congress, after the approval of said act, and after said public proclamations of the President, by being used in the transportation of troops of the so-called Confederate States, and in the

24 transportation of munitions of war and supplies for the use of said troops; nor was said steamboats, etc., acquired, sold, or given by your respondents, or by their agent or employee, with intent to use or employ the same for the purpose of aiding, abetting, and promoting said insurrection and resistance to the laws, after the approval of said act of Congress, and after the public proclamations aforesaid, for the purpose aforementioned; nor did your respondents knowingly consent to the use or employment of their said steamboat, etc., for the purpose of aiding, abetting, and promoting said insurrection and resistance to the laws, or of aiding, abetting, and promoting persons engaged therein, after the approval of said act of Congress, and after the proclamations above mentioned, for the purposes aforesaid; nor did your respondents, or their agent or employee, suffer said steamboat, etc., to be used or employed in aiding, abetting, or promoting the insurrection proclaimed by the President, as

aforesaid, and in aiding, abetting, or promoting a person or
25 persons engaged in said insurrection, after the approval of said act of Congress above mentioned, and after said public proclamations, by permitting the use of said steamboat, etc., as aforesaid; and your respondents say that said steamboat, etc., was lying in a district under rebel occupation, and if any illegal use was made of said steamboat, etc., the same was done by the application of illegal and irresistible physical force, against the consent, will, or approbation of your respondents, or their agent or employees; that your respondents are and always have been loyal citizens of the U. S., and by no act of theirs or their agents or employees, and by no uses to which said steamboat, etc., may have been devoted, ought the same be confiscated and condemned to the use of the U. S. as enemy's property.

Therefore your respondents respectfully pray that said libel may be dismissed with costs, and that steamboat Frolic be restored
26 to them; and they pray for general relief.

(Signed) C. ROSELIUS, *Proctor.*
(Signed) JOHN FREESE.

Sworn to and subscribed before me, this 26th July, 1865.
(Signed) F. B. VINOT, *D'y. Cl'k.*

Notice to take testimony.—Issued November 29th, 1865.

United States circuit court, eastern dist. of Louisiana.

UNITED STATES
vs.
THE STEAMER FROLIC, her tackle, apparel, and furniture. } No. 3,595.

To C. Roselius, esq.:

You are hereby notified that testimony will be taken in the above-entitled cause on Monday, the 4th day of December, 1865, at the clerk's office of this court, at 2 o'clock p. m., on behalf of libellants.

New Orleans, Nov. 29th, 1865.
27 (Signed) F. B. VINOT, *D'y Cl'k.*

Marshal's return.

Received Nov. 29th, 1865, and same day, month, and year served a copy of this notice to C. Roselius, esq., personally.
December 1st, 1865.
(Signed) G. HOLLANDER,
D'y U. S. Marshal.

Testimony for libellants.—Filed Dec. 4th, 1865.

UNITED STATES
vs.
STEAMER FROLIC.

Testimony taken Dec. 4th, 1865, in presence of the district att'y and C. Roselius:

R. W. Sanders, sworn for U. S., says: I know the Frolic; she had been in the confederate service in the year 1863 and '64; she
28 carried confederate supplies, troops, &c., and very much against the will of the owner, I assure you; I had more trouble with her capt. than with any other man on the river; vouchers were issued to the capt. for his services, but not by me. The captain gave me much trouble; he was not disposed to serve the confederate government; I had to threaten him, and to put him under guard; we even called him Yankee; I use no force against him, and don't know that any was used by other confederate officers; sometimes the capt. commanded the Frolic, and sometimes he did not; the capt. was known as an owner of the Frolic; his name is Freese.

Cross-ex.:

This Capt. Freese always made objections against our taking his boat; had he used any physical resistance he would likely have been bayoneted, and his boat taken anyhow; his boat was once taken from him by the government and appraised, and afterwards re-
29 turned to him; Capt. Freese was regarded as a suspicious man at the time by those who dealt with him; he was suspected to be a Union man, and only wanted an opening to slip out.

(Signed) R. W. SANDERS.

Notice to take testimony.—Issued Dec. 6th, 1865.

United States circuit court, eastern dist. of Louisiana.

UNITED STATES
vs.
THE STEAMER FROLIC. } No. 3,595.

To C. Roselius, esq.:

You are hereby notified that testimony will be taken in the above-entitled cause on Wednesday, the 6th day of December, 1865, at the clerk's office of this court, at 5 o'clock p. m., on behalf of libellants.

New Orleans, Dec. 6th, 1865.

(Signed) F. B. VINOT, *D'y Cl'k.*

30 *Marshal's return.*

Received December 6th, 1865, and same day, month, and year served a copy of the within notice on C. Roselius, esqr., in the hands of his partner, A. Philips, esq.

December 1st, 1865.

(Signed) J. J. PREIS,
D'y U. S. Marshal.

Testimony for libellants.—Filed December 6th, 1865.

UNITED STATES
vs. } No. 3,595.
STEAMER FROLIC.

T. L. Airey, sworn for U. S., says: I was ass't Q. M. of the confederate army in 1864 and '65, at Alexandria and Natchitoches. I know that the Frolic brought down corn for the army, but cannot state positively that she was in the confederate service. This was in the latter part of 1865. It was confederate government corn
31 for the army. She brought us corn 2 or 3 times. Jno. Freese, was the capt. of the Frolic.

Cross-ex.:

From the conversation I had with the capt. I don't think he had much disposition to serve the confederacy. I don't think he carried this corn voluntarily, but don't know the fact positively. From what I could see, I judged he did not serve voluntarily. He brought no order to me when he brought this corn. All I know is that the Frolic brought me corn under the instructions and orders of Capt. McMasters, Q. M. Whenever I wanted any I would write to the Q. M. and he would send a boat down.

Re-direct ex:

I never telegraphed to Capt. McMasters to send me corn by the Frolic. I know of no instance when Mr. Freese made any objection to serve with his boat.

32 Re-cross:

I know nothing more of the Frolic than that I have stated above.
(Signed) THOS. L. AIREY.

Sworn to and subscribed before me, this 6th December, 1865.
(Signed) CH'S CLAIBORNE,
U. S. Comm'r.

James A. Gresham, sworn for U. S., says: I was a bonded agent of the confederacy, stationed at Grand Ecore. In the latter part of '64, and beginning of '65, the Frolic was used by the confederate authorities for transportation of corn and forage and used by the Confederate States authorities. She was engaged so about 1 year, running between Alexandria and Shrevesport, and more frequently between Alexandria and Grand Ecore, and to Fort De Russey. At the fall of the city of New Orleans, I think she was at Shrevesport, and had been used by the confederates up to the time of the surrender.

33 Cross-ex:

My duties were simply to discharge these boats as they arrived. I was the clerk of Capt. Airey. I should think that the services of the Frolic were rendered under military order. I know of no other facts connected with the boat.

Testimony for libellants.—Filed Dec. 4th, 1865.

UNITED STATES
vs.
STEAMER FROLIC.

Testimony taken Dec. 4th, 1865, in presence of the district att'y and C. Roselius:

R. W. Sanders, sworn for U. S., says: I know the Frolic; she had been in the confederate service in the year 1863 and '64; she
28 carried confederate supplies, troops, &c., and very much against the will of the owner, I assure you; I had more trouble with her capt. than with any other man on the river; vouchers were issued to the capt. for his services, but not by me. The captain gave me much trouble; he was not disposed to serve the confederate government; I had to threaten him, and to put him under guard; we even called him Yankee; I use no force against him, and don't know that any was used by other confederate officers; sometimes the capt. commanded the Frolic, and sometimes he did not; the capt. was known as an owner of the Frolic; his name is Freese.

Cross-ex.:

This Capt. Freese always made objections against our taking his boat; had he used any physical resistance he would likely have been bayoneted, and his boat taken anyhow; his boat was once taken from him by the government and appraised, and afterwards re-
29 turned to him; Capt. Freese was regarded as a suspicious man at the time by those who dealt with him; he was suspected to be a Union man, and only wanted an opening to slip out.

(Signed) R. W. SANDERS.

Notice to take testimony.—Issued Dec. 6th, 1865.

United States circuit court, eastern dist. of Louisiana.

UNITED STATES
vs.
THE STEAMER FROLIC. } No. 3,595.

To C. Roselius, esq.:

You are hereby notified that testimony will be taken in the above-entitled cause on Wednesday, the 6th day of December, 1865, at the clerk's office of this court, at 5 o'clock p. m., on behalf of libellants.

New Orleans, Dec. 6th, 1865.

(Signed) F. B. VINOT, *D'y Cl'k.*

30 *Marshal's return.*

Received December 6th, 1865, and same day, month, and year served a copy of the within notice on C. Roselius, esqr., in the hands of his partner, A. Philips, esq.

December 1st, 1865.

(Signed) J. J. PREIS,
D'y U. S. Marshal.

Testimony for libellants.—Filed December 6th, 1865.

UNITED STATES
vs. } No. 3,595.
STEAMER FROLIC.

T. L. Airey, sworn for U. S., says: I was ass't Q. M. of the confederate army in 1864 and '65, at Alexandria and Natchitoches. I know that the Frolic brought down corn for the army, but cannot state positively that she was in the confederate service. This was in the latter part of 1865. It was confederate government corn
31 for the army. She brought us corn 2 or 3 times. Jno. Freese, was the capt. of the Frolic.

Cross-ex.:

From the conversation I had with the capt. I don't think he had much disposition to serve the confederacy. I don't think he carried this corn voluntarily, but don't know the fact positively. From what I could see, I judged he did not serve voluntarily. He brought no order to me when he brought this corn. All I know is that the Frolic brought me corn under the instructions and orders of Capt. McMasters, Q. M. Whenever I wanted any I would write to the Q. M. and he would send a boat down.

Re-direct ex:

I never telegraphed to Capt. McMasters to send me corn by the Frolic. I know of no instance when Mr. Freese made any objection to serve with his boat.

32 Re-cross:

I know nothing more of the Frolic than that I have stated above.
(Signed) THOS. L. AIREY.

Sworn to and subscribed before me, this 6th December, 1865.
(Signed) CH'S CLAIBORNE,
U. S. Comm'r.

James A. Gresham, sworn for U. S., says: I was a bonded agent of the confederacy, stationed at Grand Ecore. In the latter part of '64, and beginning of '65, the Frolic was used by the confederate authorities for transportation of corn and forage and used by the Confederate States authorities. She was engaged so about 1 year, running between Alexandria and Shrevesport, and more frequently between Alexandria and Grand Ecore, and to Fort De Russey. At the fall of the city of New Orleans, I think she was at Shrevesport, and had been used by the confederates up to the time of the surrender.

33 Cross-ex:

My duties were simply to discharge these boats as they arrived. I was the clerk of Capt. Airey. I should think that the services of the Frolic were rendered under military order. I know of no other facts connected with the boat.

Re-ex.:

I can't swear positively that the Frolic rendered these services under military orders. I do not know personally that the Frolic rendered her services under military orders.

(Signed) JAS. A. GRESHEM.

Sworn to and subscribed before me, this 6th December, 1865.

(Signed) CH'S CLAIBORNE,
U. S. Comm'r.

Supplemental and amended answer.—Filed March 24th, 1866.

U. S. Circuit court, 6th circuit and eastern dist. of La.

34 UNITED STATES
vs.
STEAMBOAT FROLIC. } No. 3,595.

The supplemental and amended answer of B. F. Goodwin, John Freese, and John Hine, claimants of the steamboat Frolic, etc.:

Respectfully represent that your claimants have been advised and verily believe and maintain that the U. S. are not entitled to prosecute this suit nor to condemn the said steamer; because, by the convention entered into at New Orleans on the 26th May, 1865, between Gen'l E. K. Smith, commanding the trans-Mississippi department, and Major Gen'l E. R. S. Canby, commanding the military division of West Mississippi, putting an end to hostilities in Louisiana, surrendering all munitions of war, military stores, and public property, etc., in the trans-Mississippi department commanded by said Gen'l E. K. Smith, it was expressly stipulated and agreed by the 4th paragraph of said convention, that private property will not be
35 interfered with unless required for public use, etc., and inasmuch as the steamer Frolic was private property within the limits of the trans-Mississippi department, commanded by said Gen'l E. K. Smith, at the time of the signing and executing the aforesaid convention, he is protected against all and every claim of forfeiture and confiscation of the U. S. which have ratified and sanctioned the aforesaid convention, and she cannot be molested for any act of a hostile nature done prior to said 26 May, 1865, the day of the entering into and executing said convention; and whereas all the acts of which the libel complains, and on which the U. S. claim to confiscate the said steamer Frolic, occurred prior to the 26 May, 1865, and while hostilities existed in the trans-Mississippi department, which were terminated by the aforesaid convention, which, in consideration of the cessation of hostilities, the surrender of all arms, military stores, and public property, extended protection to and abandoned all
36 claim to private property, the respondents pray this hon. court to dismiss the libel and restore said steamer to the claimants and owners.

(Signed) C. ROSELIUS, *Proctor.*

Commission for defendants, issued 26 September, 1865.—Returned and filed March 24th, 1866.

Circuit court of the United States for the sixth judicial circuit, holding sessions in and for the eastern district of Louisiana.

To any United States commissioner, Louisiana commissioner, judge, or justice of the peace, residing at Wheeling, Western Virginia.

Know ye, that reposing special trust and confidence in your
37 integrity and ability, we hereby authorize and require you that you call and cause to come before you the witnesses that may be produced to the annexed interrogatories, and them duly examine on the annexed interrogatories, on oath, touching and concerning certain matters and things in a case now depending in the said court, wherein the United States of America are plaintiffs, and the steamer Frolic defendant, and the same examinations, so taken and reduced to writing, you certify under your hand and seal, and send enclosed to this court without delay, to be read in evidence on the trial of said cause, and send also this writ.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme court of the United States at the city of New Orleans, this 26th day of September, anno Domini, 1865, and the 90th year of the independence of the United States of America.

38 (Signed) CHARLES CLAIBORNE, *Cl'k.*
By F. B. VINOT, *D'y Clerk.*

Interrogatories on behalf of B. F. Goodwin, annexed to commission.

UNITED STATES
vs.
STEAMER FROLIC. } No. 3,595.

Interrogatories to be propounded to witnesses residing at Wheeling, Western Virginia, the answer to which are to be used on behalf of B. F. Goodwin, one of the claimants in the above-entitled cause on the trial thereof:

1st. Are you over twenty years of age? If not, how old are you?

2d. Where do you reside, and how long have you resided there?

3d. Are you acquainted with B. F. Goodwin? If yea, how long have you known him? Where has he resided since you have known him? What is his business or occupation? What does he follow for a living or support?

39 4th. Where was he during all the time of the late war? How was he employed during the late war? Was he or was he not considered loyal and true to the United States during the late war between the United States and Confederate States?

5th. Who had the steamer Frolic built? Where was she built? When was she built? Has Capt. B. F. Goodwin, above named, any interest in said boat? If yea, how much? Who settled and arranged the debts incurred in building said boat? Who owned said boat at the time she was built?

6th. Do you know any other fact or circumstance that will be of service or benefit to Capt. B. F. Goodwin, one of the claimants in the above-entitled cause? If yea, you will please state the same as fully and as much in detail as though you were specially interrogated in regard thereto.

(Signed) C. ROSELIUS, *Proctor.*

Reserving all legal exceptions, other than those of form,
40 which are waived, I decline to cross the above interrogatories, I also waive the naming of the witness in the interrogatories.

(Signed) RUFUS WAPLES, *U. S. Att'y.*

We consent and agree that the commission herein to be issued be addressed to any U. S. commissioner, La. commissioner, judge, or justice of the peace residing at Wheeling, Western Virginia, whose certificate shall be full proof of his authority and capacity to execute the commission.

(Signed) C. ROSELIUS, *Proctor.*
(Signed) RUFUS WAPLES, *U. S. Att'y.*

Depositions of witnesses taken under foregoing commission.

Depositions of William P. Wilson, John Mulvine, J. C. Sweeney, John Freese, George Feller, and John McLure, jr., witnesses produced, sworn, and examined on the thirteenth day of Oc-
41 tober, 1865, by virtue of a commission issued out of the circuit court of the United States, for the sixth judicial circuit holding sessions in and for the eastern district of Louisiana, to any United States commissioner, Louisiana commissioner, judge, or justice of the peace, to examine such witnesses as may be produced before me in a certain cause then depending and at issue, wherein the United States are plaintiff, and the steamer Frolic is defendant, as follows:

William P. Wilson, of lawful age having been first duly cautioned, examined, and solemnly sworn, deposes and says:

In answer to the first interrogatory he says: I am over twenty-one years of age.

In answer to the 2d int. he says: I reside in the city of Wheeling, and have resided there forty-three years.

In answer to the 3d int. he says: I am acquainted with B. F. Goodwin, and have known him for the last fifteen years. He has
42 resided all the time in Wheeling since I knew him. His business and occupation since I knew him has been that of a steamboat pilot, and he has followed that for a livelihood ever since I have known him.

In answer to the 4th int. he says: During the time of the late war he was engaged on steamboats on the Ohio river, residing all the time in the city of Wheeling. I think, in the beginning of the war, he was in the south engaged in his ordinary occupation, but came home when the war broke out. During the late war he was engaged

in his occupation as a steamboat man on the Ohio river. He was regarded as loyal and true to the United States during the late war between the United States and Confederate States.

In answer to the 5th int. he says: That Benjamin F. Goodwin and John Freese had the steamer Frolic built in the city of Wheel-
43 ing. Her hull was built by Wilson, Dunlevy & Co. Her engines were set by up Sweeneys & Co., and her cabin was built by Updegraff; the timber for which cabin was obtained from Hamas & Beam, all of whom were citizens of Wheeling. She was built in 1860, and came out in the fall of that year. Capt. B. F. Goodwin had an interest in the boat when she was built, and I believe he has now. I understood that he owned one-half of her when built. Capt. Goodwin settled and arranged the building debts of the steamboat, and he and Capt. John Freese owned said boat when built.

In answer to the 6th int'y he says: I know of no other fact or circumstance, except that I believe the man ought to have his own property, and that I believe he has an interest in the steamboat Frolic.

And further this deponent saith not.

(Signed) W. P WILSON.

44 T. C. Sweeney, of lawful age, having been first duly cautioned, examined, and solemnly sworn, deposes and says:

In answer to the 1st int. he says: I am over twenty-one years of age.

In answer to the 2d int. he says: I reside in the city of Wheeling, and have resided here nearly thirty-three years.

In answer to the 3d int. he says: I am acquinted with B. F. Goodwin, and have known him about sixteen years, during which time he has resided in Wheeling, and his occupation during that time has been that of a steamboat pilot and capt. He follows this occupation for a living and support.

In answer to the 4th int. he says: During the time of the late war he resided in the city of Wheeling, and was there and engaged in following his occupation on the Ohio river and its tributaries. He
45 was engaged, during the late war, in steamboating. He was considered loyal and true to the United States during the late war between the United States and the Confederate States.

In answer to the 5th int. he says: That Capt. B. F. Goodwin and John Freese had the steamer Frolic built; she was built at Wheeling in the year 1860. Capt. B. F. Goodwin, by the showing of the custom-house papers, owns one-half of the steamer Frolic. Capt. B. F. Goodwin and John Freese settled our claims for the building of the said steamboat, and they owned the boat at the time she was built.

In answer to the 6th int. he says: I know that Capt. B. F. Goodwin was in the government service on two different boats at least, as capt., and on more boats in other capacities, and had risked
46 his life in such service. I have no doubt of the fact that he has been a loyal man during the whole of the late war; I have

been well acquainted with him, and have never heard him even speak disloyally.

And further this deponent saith not.

(Signed) T. CAMPBELL SWEENEY.

John C. Mulvine, of lawful age, having been first duly cautioned, examined, and solemnly sworn, deposes and says:

In answer to the 1st int. he says: I am over twenty-one years of age.

In answer to the 2d int. he says: I reside in the city of Wheeling, and have resided here fourteen years.

In answer to the 3d int. he says: I am acquainted with B. F. Goodwin, and have been for the last thirteen years, during
47 which time I have known him as a steamboat man, which occupation he follows for a living.

In answer to the 4th int. he says: During the late war he has resided in the city of Wheeling, and has been there or on the Ohio river and its tributaries, or on the Mississippi, above the mouth of the Ohio. During the late war he has been engaged in his occupation as steamboat capt. or pilot. He has been considered loyal and true to the United States during the late war between the United States and Confederate States.

In answer to the 5th int. he says: I have always understood that Capt. B. F. Goodwin and John Freese had the steamer Frolic built. B. F. Goodwin superintended the building of her. She was built at Wheeling in the summer and fall of 1860. I have always understood that Capt. Goodwin owned one-half of the steamer Frolic. I
48 don't know who settled and arranged the debts for the building of the boat; but I know Capt. B. F. Goodwin and Freese owned her when she was built.

In answer to the 6th int. he says: I know that B. F. Goodwin has been capt. on boats which were in the government employ. I have been intimately acquainted with him during the late war, and have never known him, by word or act, to indicate that he was other than a perfectly loyal man, and such is his reputation among those who know him.

And further this deponent saith not.

(Signed) JOHN MULVINE.

John Freese, of lawful age, having been first duly cautioned, examined, and solemnly sworn, deposes and says:

In answer to the 1st int. he says: I am over twenty-one years of age.

49 In answer to the 2d int. he says: I reside in the city of Wheeling, and have resided there since the year 1851.

In answer to the 3d int. he says: I am acquainted with Capt. B. F. Goodwin, and have known him since the year 1846. His business was that of a steamboat man, and he follows it for a living.

In answer to the 4th int. he says: I do not know where Capt. B.

F. Goodwin was during all the time of the late war, nor how he was employed; I do not know if he was considered true and loyal to the United States.

In answer to the 5th int. he says: That Capt. B. F. Goodwin and I had the steamer Frolic built in the summer and fall of 1860. She was built at Wheeling. Capt. B. F. Goodwin has an interest of one-half in said boat. B. F. Goodwin and myself settled and ar-
50 ranged the debts for building said boat, and Capt. B. F. Goodwin and I owned said boat when she was built.

In answer to 6th int. he says: He laid the boat up at New Orleans shortly after she was built, in April, of the year 1861, because we had not means to bring her home to Wheeling, and we had to borrow money to bring ourselves home. She came home, and I remained here until Jan. 29th, 1862, when I went back to the boat. Capt. Goodwin remained at Wheeling. Previous to my going in the month of September, in conversations with Capt. Goodwin, he objected to my returning to the boat. I thought it was prudent for one of the owners to be at the boat to protect the interests of said boat, her owners and creditors. I went without any knowledge of Capt. Goodwin as to the time of my leaving. I have no interest in the
51 boat now and have not had since the 8th of July, 1863, when I sold out my interest in the boat.

In addittion to the above, I desire to say that I was captain on the steamer Frolic from the time I went south, as I have before stated, up to September, 1865, that the said boat never went voluntarily into the service of the southern confederacy. She was first pressed into the service of the southern confederacy in May, 1862, against the express wishes and protests of her owners. A formal protest against her impressment was regularly made out and filed by me at Alexandria, in Louisiana, but I believe this has been destroyed. This formal protest was made out in February, 1864, when she was again pressed into the service and taken possession of by the southern confederacy, during which time I had no control of her. This last time she was taken under the orders of Gen'l Taylor.
52 During a part of the time that she was thus impressed into the service of the Confederate States, they had a military guard aboard of her, for the purpose, as we all understood, to keep me from running the boat out of the confederate lines; and the said boat was, during all the time she was in the confederate service, under confederate control, and officers on board of her had no discretion over her in regard to her employment.

And further this deponent saith not.

(Signed) JOHN FREESE.

George Fellows, of lawful age, having been first duly cautioned, examined, and solemnly sworn, deposes and says:

In answer to the 1st int. he says: I am over twenty-one years of age.

In answer to 2d int. he says: I reside in Wheeling, and have resided there fourteen years.

53 In answer to the 3d int. he says: I am acquainted with Capt. B. F. Goodwin. I have known him about twelve years, during which time he has resided in the city of Wheeling. He is a steamboat man by occupation, and follows that for a living.

In answer to the 4th int. he says: During all the time of the late war Capt. B. F. Goodwin has resided in the city of Wheeling, and has been there or on the Ohio river and its tributaries, or on the upper Mississippi, and has been engaged as a steamboat man either as capt. or pilot during that time, and since February, 1863, has been engaged on my boat, the Lizzie Martin, the Dune, and the Bertrand; and during a portion of that time has been engaged in the service of the United States with two of my boats. I know
54 that he has been true and loyal to the United States during the late war between the United States and the Confederate States; and I have known him to have been in positions where he could have surrendered hundred of thousands of dollars worth of property, but which he saved to the government of the United States at the risk of his own life. At this time he was in the service of the government of the United States as captain of a steamboat.

In answer to the 5th int. he says: I believe Capt. B. F. Goodwin and John Freese had the steamer Frolic built. She was built at Wheeling, in the summer and fall of 1860. I know that he had an interest in the boat, and believe he owned one-half of her. I do not know who arranged and settled the building debts of the boat, but believe they were settled by B. F. Goodwin and John Freese.

In answer to the 6th int. he says: I know Capt. B. F.
55 Goodwin has been, during the war, a man of undoubted loyalty. I have been intimately acquainted with him, and have never heard him to say a word, nor known him to do an act which was not consistent with that character, nor have I ever heard a word breathed against him, and I know of no man in whose patriotism, loyalty, and honesty I have more confidence than in his.

And further this deponent saith not.

(Signed) GEORGE FELLERS.

John McLure, jr., of lawful age, having been first duly cautioned, examined, and solemnly sworn, deposes and says:

In answer to the 1st int. he says: I am over twenty-one years of age.

56 In answer to the 2d int. he says: I reside in Wheeling, and have resided there forty years and upwards.

In answer to the 3d int. he says: I am acquainted with B. F. Goodwin, and have known him for twelve or fifteen years, maybe longer. Since I have known him he has resided in Wheeling. His occupation is that of steamboat capt. and pilot, and follows that business for a livelihood.

In answer to 4th int. he says: During a part of the time of the late war he was engaged in the government service, but I don't know whether he was all the time. He was part of the time, during the war, here and on the Ohio river and the Cumberland river. He was

considered loyal during the late war between the United States and the confederate; I mean he was loyal to the United States.

In answer to 5th int. he says: Capt. B. F. Goodwin had
57 the steamer Frolic built. She was built in the fall of 1860. I believe Capt. B. F. Goodwin, above named, had an interest in said boat. Capt. Goodwin settled and arranged the debts of said boat incurred in building her—at least I seen him settle some, and I supposed no one else did. I believe, from what I have heard and seen, that Capt. B. F. Goodwin and John Freese owned the boat when she was built.

In answer to the 6th int. he says: During the war I was engaged in the government service as general superintendent of government steamers. A portion of the time on the Ohio and Kanawha rivers, and a portion of the time I was appointed to construct armed transports on the Cumberland river. This last appointment I received from Gen'l Rosecrans during the time I was at Nashville en-
58 gaged in this work. Capt. Goodwin was at that time running a transport boat from Louisville to Nashville, in government service. On one of these trips from Louisville his boat was loaded with ammunition, about 200 tons and upwards. On his trip up the Cumberland river, she was attacked, in company with one other boat, by a battery placed upon the bank by the rebels, about seventy miles below Nashville. She was at that time lashed in company with the steamer Eclipse, government transport, when the rebels opened fire on them. In a few fires the Eclipse was disabled by a shell or ball cutting her supply pipe. In the meantime several balls or shells passed through Capt. Goodwin's boat, and it became necessary, either to cut her loose to save Capt. Goodwin's boat or be towed out of danger, if possible. Through the energy and indefatigability of Capt. Goodwin, by sticking to her through shot and shell, he
59 towed her out of the danger, saving the cargo of both boats, which was a feat, at the time, deserving of great credit to Capt. Goodwin, which he received from the quartermaster and other officers connected in the service, as the cargoes of both boats were of immense value to the government, and would of been of great value to the rebels if they had been captured.

And further this deponent saith not.

(Signed) JNO. McLURE, Jr.

UNITED STATES OF AMERICA,
District of West Virginia:

I, Gibson L. Cranmer, a commissioner duly appointed by the district court of the United States for the district of West Virginia, under and by virtue of the "act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United
60 States," passed February 20th, 1812, do hereby certify that the foregoing depositions of witnesses were taken by me, and that the testimony of said witnesses are necessary in the cause in the caption of said depositions named.

That on the 13th day of October, A. D. 1865, I was attended by

the said witnesses; and each of the said witnesses was by me carefully examined and cautioned and sworn to testify the truth; and the testimony by them respectively given was by me reduced to writing, and thereafter subscribed by each of the said witnesses in my presence. And that I am not of counsel or attorney to either of of the parties, nor in any way interested in the event of the cause named in the said caption.

(Signed) GIBSON L. CRANMER,
U. S. Commissioner for the Dist. of West Virginia.

61

Costs of this deposition	$5 50
Swearing 6 witnesses	1 50
Postage	25
	7 25

Note of evidence.—Filed March 24th, 1866.

UNITED STATES
vs.
THE STEAMER FROLIC. } No. 3,595.

Libellants offered the evidence of Sanders, Airy, and Gresham.

Defendant offered the testimony taken under commissioner, marked A.

M. Grivot, J. G. Clark, F. V. Cellos, W. W. Whitenburg, all sworn for defendant.

(Supplemental and amended answer filed.)

62 *Hearing and submission.—From minutes, March 24th*, 1866.

UNITED STATES
vs.
THE STEAMER FROLIC, etc. } No. 3,595.

This cause was called up for trial, district att'y for libellants; C. Roselius, esq'r, for defendant.

When, on motion of the attorney for the defendant, ordered that the sealed commission now presented be opened.

And after hearing of pleadings, evidence, and argument, the court took time to advise.

Final decree.

Circuit court of the United States, sixth circuit and eastern dist. of Louisiana.—April term, 1866.

63 NEW ORLEANS, *Saturday, June 30th*, 1866.

Court met pursuant to adjournment. Present, the Hon. E. H. Durell, district judge.

UNITED STATES
vs.
THE STEAMER FROLIC. } No. 3,595.

For reasons orally assigned by the court, it is ordered, adjudged,

and decreed that the libel be dismissed, and that the property seized be restored to the claimant upon the payment of all costs and a fee of $450 to the district attorney.

Judgment rendered June 30th, 1866.

Judgment signed June 30th, 1866.

(Signed) E. H. DURELL, *Judge.*

Petition of appeal.—Filed July 30th, 1866.

UNITED STATES *vs.* STEAMER FROLIC. } No. 3,595.

64 U. S. circuit court.

To the hon. the judges of the circuit court of the United States for the sixth circuit and eastern district of Louisiana.

The petition of Jno. K. Goodloe, U. S. attorney, in the name and behalf of the United States of America, libellants herein, respectfully represents:

That a final sentence and decree was entered on the 30th day of June, 1866, in the above-entitled cause, in said circuit court for the east. dist. of La., in and by which said final sentence and decree it was ordered, adjudged, and decreed that the libel herein be dismissed, and the property seized restored to claimants; that said final sentence and decree is adverse to said libellants and to their manifest injury and prejudice; that the matter in controversy exceeds in value the sum of two thousand dollars; that your petitioner, in behalf as aforesaid, feels aggrieved by the rendition of said

65 final decree, and is advised that the same is erroneous and ought to be reversed.

Wherefore your petitioner, in behalf as aforesaid, doth hereby appeal from said final decree to the next Supreme Court of the United States, returnable on the first Monday of next December, and prays this hon. court to grant him a suspensive appeal, the same to operate as a supersedeas, and that said final sentence and decree may be reversed, and such other decree thereupon made as to the said Supreme Court shall seem just; and that a transcript of the record and proceedings in this cause, duly authenticated, may be sent up to the said Supreme Court without delay.

(Signed) C. S. KELLOGG,
Ass't U. S. Attorney.

Order.

66 An appeal to operate as a supersedeas is allowed in this case, as prayed for, returnable to the Supreme Court of the United States the first Monday of December next, the appellants being by law dispensed from giving bond and security in judicial proceedings.

July 6th, 1866.

(Signed) E. H. DURELL, *Judge.*

67 UNITED STATES OF AMERICA:

Circuit court of the United States, sixth circuit and eastern district of Louisiana.

CLERK'S OFFICE.

I, Charles Claiborne, clerk of the circuit court of the United States for the sixth circuit and eastern district of Louisiana, do hereby certify that the foregoing 66 pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had, together with all the evidence adduced on the trial of the case of the United States *vs.* the steamer Frolic, tackle, apparel, &c., No. 3,595 of the docket, so far as the same now remain of record or on file in said court.

Witness my hand and the seal of said court, at the city of New Orleans, this 18th day of August, A. D. 1866.

[SEAL.] CH'S CLAIBORNE, *Clerk.*

[5-ct. int. rev. stamp.]

I, E. H. Durell, United States judge for the eastern district of Louisiana, do hereby certify that Charles Claiborne, whose name is signed to the above certificate as clerk of the circuit court of the United States for the sixth circuit and eastern district of Louisiana, was, at the time of signing said certificate, and is now, the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand and seal, at the city of New Orleans, in said district, this 18th day of August, A. D. 1866.

E. H. DURELL, *Judge.*

[5-ct. int. rev. stamp.]

68 THE UNITED STATES OF AMERICA,
Eastern District of Louisiana:

The President of the United States to John Freese, claimant and defendant, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at the city of Washington on the first Monday of December next, pursuant to a petition and order of appeal filed in the clerk's office of the circuit court of the United States for the 6th circuit and eastern district of Louisiana, to answer the appeal taken by the United States of America in this cause, and that you show cause, if any there be, why the judgment rendered against the said United States, as in said petition mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, this 7th day of July, in the year of our Lord one thousand eight hundred and sixty-six.

E. H. DURELL, *Judge.*

Marshal's return.

Received July 12th, 1866, and on the same day, month, and year served a copy of the within citation on Jno. Freese, the claimant and defendant named herein, by leaving the same in the hands of C. Roselius, esq., attorney for said Freese, at the office of said attorney, No. 78 Custom-house st., in this city.

M. EGAN, *D'y U. S. Marshal.*

New Orleans, July 12, 1866.

69 THE UNITED STATES OF AMERICA,
Eastern District of Louisiana:

The President of the United States to John Hine, claimant and defendant, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at the city of Washington on the first Monday of December next, pursuant to a petition and order of appeal filed in the clerk's office of the circuit court of the United States for the 5th circuit and eastern district of Louisiana, to answer the appeal taken by the United States of America in this cause, and that you show cause, if any there be, why the judgment rendered against the said United States, as in said petition mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, this 7th day of July, in the year of our Lord one thousand eight hundred and sixty-six.

E. H. DURELL, *Judge.*

Marshal's return.

Received July 12th, 1866, and on the same day, month, and year served a copy of the within citation on John Hine, the defendant and claimant named herein, by giving the same into the hands of C. Roselius, esq., attorney for said Hine, at the office of said attorney, No. 78 Custom-house street, in this city.

M. EGAN, *D'y U. S. Marshal.*

New Orleans, July 12, 1866.

70 THE UNITED STATES OF AMERICA,
Eastern District of Louisiana:

The President of the United States to B. F. Goodwin, claimant and defendant, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at the city of Washington on the first Monday of December next, pursuant to a petition and order of appeal filed in the clerk's office of the circuit court of the United States for the 6th circuit and eastern district of Louisiana, to answer the appeal taken by the United States of America in this

cause, and that you show cause, if any there be, why the judgment rendered against the said United States, as in said petition mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, this 7th day of July, in the year of our Lord one thousand eight hundred and sixty-six.

E. H. DURELL, *Judge.*

71 *Marshal's return.*

Received July 12th, 1866, and on the same day, month, and year served a copy of the within citation on B. F. Goodwin, claimant and defendant named herein, by giving the same into the hands of C. Roselius, esq., atty. for said B. F. Goodwin, at the office of said attorney, No. 78 Custom-house st., in this city.

M. EGAN, *D'y U. S. Marshal.*

New Orleans, June 12, 1866.